

# **The Inspection and Enforcement Process**

This Department's Hazardous Materials Specialists (HMS) inspect, enforce, and permit hazardous materials handler and hazardous waste generating businesses to assure compliance with federal, state, and local laws and regulations. Staff use their education and expertise in industrial processes, industrial hygiene, laws & regulations, toxicology and chemistry to assure compliance and assist businesses in preventing pollution and hazardous substances mismanagement. This is done by identifying and assessing the use of hazardous materials and the environmental fate of hazardous wastes generated and treated by industry. This process overview will give you an idea of the inspection process and enforcement expectations.

## **Authority**

California Health and Safety Code (HSC) Sections 25185, 25404, and 25508 grant Unified Program Agencies inspection and enforcement authority at facilities that handle hazardous materials and/or generate hazardous wastes. Sections 25404.2 and 25280 require agencies to inspect permitted facilities.

## **The Inspection**

Inspections are normally unannounced because of the regulatory nature of our inspections and the uncertain timeframes involved with each facility. Inspections are conducted in the following manner:

### **Opening Conference**

- The HMS will approach management and provide identification, including a business card.
- The purpose of the inspection will be discussed. The inspector will request consent to:
  - walk through the facility
  - document findings
  - interview employees
  - review documents
  - photograph and sample materials and wastes.
- Past inspection and enforcement history may be discussed.
- Health and safety requirements will be discussed for the safety of the inspector (HSC Section 25185 (b) requires inspectors to follow safety measures in your facility).

### **Facility Walkthrough**

A general walkthrough of the facility will be conducted to inspect processes and storage areas:

- The inspector will discuss and ask questions regarding facility operations.
- Observations, including any violations found, will be documented in field notes.
- Multi-media issues outside our jurisdiction will be documented and referred to other agencies,

including:

- worker safety
- air quality
- water quality
- fire prevention
- The inspector will informally discuss any compliance issues during the walkthrough.
- Photographs may be taken and samples collected.
  - Copies of photographs will be provided to the facility no later than 65 days from date of the inspection.
  - Split samples will be provided for any samples collected and copies of results provided to the facility within 10 working days of their receipt by the inspector.

## **Document Review**

Documents related to the management of hazardous materials and hazardous wastes will be requested and reviewed. These documents may include, but are not limited to:

- permits
- hazardous materials (chemical) inventory
- contingency plan
- training plan and records
- inspection logs
- material safety data sheets (MSDS)
- waste analyses and profiles
- hazardous waste manifests
- land disposal restriction notices
- reclamation agreements
- bills of lading (empty containers, batteries, oil filters, rags etc.)
- hazardous waste tank certifications

The following may be reviewed at recyclers:

- Recyclable Materials Biennial Report
- contracts or documents showing beneficial use of recyclable materials
- bills of lading and receipts

The following may be reviewed at Large Quantity Generators:

- the Biennial Report
- Source Reduction (SB 14) Plan and Progress Report
- SARA Title III Form R

The following may be reviewed at applicable sites:

- notification and authorizations
- operating instructions and log
- written inspection schedule and log
- industrial waste self-monitoring reports
- Phase I environmental checklist, for Conditionally Authorized (CA) and Permit By Rule (PBR)
- financial assurance (CA and PBR)
- waste analysis plan and records (PBR)
- written inspection plan (PBR)
- annual report (PBR)
- closure cost estimate (CA and PBR)
- closure plan (PBR)
- SPCC Plan for Aboveground Petroleum Storage (APST)

Maintaining organized record keeping will assist both the business with compliance, the inspector in performing his or her job, and reduce inspection time.

### **Closing Conference**

To conclude, the HMS will issue and provide the facility with an Inspection Report and/or Notice of Violation. Any violations found will be reviewed with management. Facilities with violations will be granted either 30 days or 60 days for compliance depending on the nature of the violation. Follow up inspections will be conducted to verify compliance and the business will be required to submit a Certification of Compliance listing actions taken to correct any violations.

### **Enforcement**

Compliance with California's Hazardous Waste Control Law and other related environmental laws and regulations is the goal of every inspection. The purpose of enforcement is to:

1. Ensure that violations are complied with effectively and in a timely manner.
2. Ensure that similar violators are treated fairly and uniformly.
3. Penalize violators to deter repeat violations.
4. Deprive violators of any significant benefit or unfair economic advantage gained from non-compliance.

The Department uses informal and formal enforcement to assure compliance.

**Informal enforcement** is designed to address violations that are either minor or Class II (moderate in nature).

Examples of minor violations may include:

- incomplete hazardous waste labels
- missing or incomplete record keeping

Examples of Class II violations may include:

- storage violations, such as open containers
- spills that are not Class I violations.

Informal enforcement includes

- educating and assisting businesses with compliance during inspections
- verbal advisories made during inspections
- Notices of Violation
- re-inspection fees (\$285 for each revisit beyond the first re-inspection)
- fees for late submission of annual hazardous materials disclosure packages
- referrals to other agencies

**Formal enforcement** is designed to address violations that are Class I (major in nature). Examples of Class I violations for hazardous wastes may include:

- illegal disposal
- illegal treatment without a permit
- reckless management
- falsification of records including manifests
- illegal transportation
- any Class II violation which is committed repeatedly and chronically

Formal enforcement includes:

- administrative penalties (i.e. Administrative Enforcement Orders)
- criminal prosecution (misdemeanor and felony prosecution in State or Federal Court)
- civil lawsuits

For more information, see [Enforcement](#).